

**OREGON ADMINISTRATIVE RULE
PUBLIC EMPLOYEES RETIREMENT BOARD
CHAPTER 459
DIVISION 045 – DOMESTIC RELATIONS ORDER**

OAR 459-045-0010

Chapter 238 Tier One / Tier Two Division of Benefits

(1) A final court order that provides for a division of benefits must use a method described in this rule. The PERS divorce forms provide all available benefit division options, conditions, and restrictions and may not be altered.

(a) For general service and police and fire members, [The] the method must be provided [identified] on PERS divorce forms. Directions to PERS not included on existing forms will not be accepted as administrable.

(b) The PERS divorce forms must be attached as labeled exhibits to the court order, and incorporated by reference in the court order.

(c) Judge members under ORS 238.500 are not required to use PERS divorce forms.

(2) Award of Alternate Payee Account (Non-Retired Member). If a final court order provides an award of an alternate payee account, the court order must provide:

(a) The date of annulment, separation, divorce, or property settlement. If no date is provided, PERS will use the date the judge signed the court order. The separate account will be established as of December 31 of the calendar year before this date unless:

(A) A prior year is provided in the court order; or

(B) The date is December 31.

(b) That a separate account be established in an alternate payee's name.

1 (c) The method by which the award is to be calculated. One of the following
2 methods must be used:

3 (A) A percentage, expressed with up to two decimal points; or

4 (B) A dollar amount.

5 (d) Whether an alternate payee is awarded matching employer dollars.

6 (e) That an alternate payee may elect to receive the award at any time after the
7 member's earliest retirement eligibility.

8 (3) Award of Payment from Member's Benefit (Non-Retired Member). If a final
9 court order awards an alternate payee a reduction or deduction amount from the
10 service or disability retirement benefit that shall be paid in the future to the
11 member, the court order must provide:

12 *[(a) The date of annulment, separation, divorce, or property settlement. If no*
13 *date is provided, PERS will use the date the judge signed the court order.]*

14 (a) Whether the award is a reduction or deduction from the member's benefit.

15 If the award is a reduction, the court order must provide whether the
16 alternate payee is eligible to elect a separate benefit option at any time
17 after the member reaches earliest retirement eligibility.

18 (b) The benefit division calculation method that is applied to both the
19 monthly, and if applicable, lump sum award. One of the following
20 calculation methods must be used:

21 (A) A percentage, expressed with up to two decimal points;

22 (B) A dollar amount; or

1 (C) A percentage of the married time ratio. The court order must
2 provide:

3 (i) The percentage, expressed with up to two decimal points;
4 and

5 (ii) The *[years and months]* starting and ending date of
6 creditable service time accrued by the member during a specified
7 period or while married to the alternate payee.

8 (c) If there is a specific end date or dollar amount limit to the award, and what
9 that date or limit is.

10 (d) Whether the award applies to service retirement benefits, disability
11 retirement benefits, or withdrawal benefits.

12 (e) Whether the member is restricted from withdrawing as a member under
13 ORS 238.265.

14 (f) *[Whether]* If not taken as a separate benefit, whether the member must
15 select a specific benefit payment option at retirement.

16 (g) *[Whether]* If not taken as a separate benefit, whether the member is
17 required to designate the alternate payee as a beneficiary:

18 (A) Before retirement; or

19 (B) At retirement.

20 (h) *[Whether]* If not taken as a separate benefit, whether an alternate payee
21 award continues or ends after the death of:

22 (A) The member; or

23 (B) The alternate payee.

1 (4) Award of Benefit (Retired Member). If a final court order awards an alternate
2 payee an amount payable from a retired member's service or disability retirement
3 benefit, the court order must provide:

4 *[(a) The date of annulment, separation, divorce, or property settlement. If*
5 *no date is provided, PERS will use the date the judge signed the court*
6 *order.]*

7 (a) Whether an alternate payee award is a reduction or deduction from the
8 member's monthly benefit, and if applicable, lump sum.

9 (b) The benefit division calculation method that is applied to both the
10 monthly, and if applicable, lump sum award. One of the following
11 calculation methods must be used:

12 (A) A percentage, expressed with up to two decimal points; or

13 (B) A dollar amount.

14 (c) If there is a specific end date or dollar amount limit to the award, and what
15 that date or limit is.

16 (d) Whether the member may *[or must]* change their beneficiary designation.

17 If the member's beneficiary designation is changed, the member's
18 monthly benefit must be recalculated.

19 (e) Whether a member who elected Option 2A or 3A under ORS 238.305(1)
20 is *[allowed to receive]* restricted from receiving the Option 1 benefit
21 under ORS 238.305(6).

22 (g) Whether the alternate payee will be the sole beneficiary or any
23 remaining share not awarded to the alternate payee shall be paid to the

1 member's secondary beneficiary if the member dies before the alternate
2 payee and the alternate payee was the member's beneficiary.

3 (h)(g) Whether an alternate payee award continues after the death of:

4 (A) The member; or

5 (B) The alternate payee.

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7 Stat. Auth.: ORS 238.465 & 238.650
8 Stats. Implemented: ORS 238.465
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